

Notice of Allowability

Application No.

10/619,152

Examiner

Patrick F. Brinson

Applicant(s)

DUNCAN, SCOTT

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to remarks filed August 16, 2004.
2. ☒ The allowed claim(s) is/are 1-13.
3. ☒ The drawings filed on July 14, 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 8/16/04.
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: After a review of the prior art of record and the Applicant's arguments, it is believed that the present invention is novel and non-obvious wherein no reference discloses a barrier used to test a water line including an upstream pipe and a downstream pipe, the barrier including a cylindrical wall and a planar disk disposed within the wall, the cylindrical wall and planar disk being formed of a single piece body, with the disk forming within the wall member, with the disk having on one side a first region sized to receive the upstream pipe and provide a water tight fit therewith and a on the other side of the disk a second region sized to receive the down stream pipe to provide a water tight fit there with. The closest references to **Huber** and **Barber** disclose similar structure but disclose the planar disk being placed within the tubular portion that receives the upstream and downstream pipes. Applicant argues the present invention is drawn to a single piece body and that it would not be obvious to form the planar disk with the cylindrical body into a single piece body. Applicant also argues that there are advantages to the single piece body including lower installation cost because of the simplicity and time saving involved and lower production costs due to the use of a single mold. Rejection was made citing MPEP legal precedent for supporting rational, 2144.04, section V, which states that it is obvious to make integral elements that were previously separate. However, Applicant's invention is not merely

integral, but is made from a single homogenous material. In re Miskinyar, 28 USPQ2d 1789 states that the term "one-piece", in its most literal and narrow meaning is a unit formed of a single, homogenous material. Therefore, the term "integral" is different from "one-piece". Therefore it is believed that it would not be obvious to modify the **Huber** and **Barber** references in order to produce a barrier having a planar disk that is molded with the cylindrical piece to form a single piece into which the upstream and downstream pipes fit providing a water tight fit.

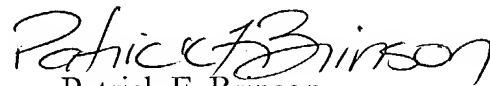
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (703) 308-0111. Effective November 22, 2004, the phone number will be (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick F. Brinson
Primary Examiner
Art Unit 3752

P. F. Brinson
September 25, 2004